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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,348	10/11/2001	Erwin Tomm	TMM 2 0006	9778
7590	04/13/2004			
Steven M. Haas FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP 1100 Superior Avenue, 7th Floor Cleveland, OH 44114-2518			EXAMINER FLANDRO, RYAN M	
			ART UNIT	PAPER NUMBER
			3679	
DATE MAILED: 04/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/975,348

Applicant(s)

TOMM, ERWIN

Examiner

Ryan M Flandro

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20040123.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

2. In view of Applicant's Amendment submitted 23 January 2004, the Examiner's objections to claims 1, 5 and 15 are hereby withdrawn.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5, 7-12, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over B.V Industrie en Handelsonderneming CIFO (NL 7601311 A) (hereinafter referred to as "CIFO") in view of Briles (US 3,682,508).

- a. Claim 1. CIFO clearly shows a lock for temporarily fixedly securing first and second associated pole sections **9,1** in a telescoped arrangement, said lock comprising a base **11** defining an axially extending through-bore adapted for close sliding receipt of an end portion of [the] first associated pole section **9**; a neck **10** projecting from said base **11**; a collar **12** connected to said neck **10** and radially constrictable relative to said base.

11, said collar 12 defining an opening aligned with said axially extending throughbore of said base 11, said collar 12 adapted for close sliding receipt of [the] second associated pole section 1 partially telescoped into said first associated pole section 9, wherein said collar 12 is defined by first and second collar portions connected to said neck 10 and terminating in respective first and second ears 14 arranged in spaced-apart relation to each other (see 13), said ears 14 defining respective first and second bores 15; a fastener 16 extending through said first and second bores 15 between said first and second ears 14, said fastener 16 including a head abutting said first ear 14, an unthreaded first portion (area adjacent head) frictionally engaged with a portion of said first ear 14 that defines said first bore to inhibit unintentional rotation of said fastener 16 and a threaded distal end (area opposite head) extending through said second bore 15 defined in said second ear 14 and projecting outwardly from said second ear 14; a lever 17 having a head defining a threaded aperture that is threadably engaged with the threaded distal end of said fastener 16, said lever 17 movable rotatably relative to said threaded distal end of said fastener 16 between an unlocked position in which said collar 12 slidably receives and accommodates the second associated pole section 1, and a locked position in which said head of said lever 17 is advanced on said threaded distal end of said fastener 16 toward said head of said fastener 16 and urges said second ear 14 toward said first ear 14 to constrict said collar 12 radially relative to said base 11 into frictional gripping engagement with the second associated pole section 1 received in the collar 12 (see figures 1 and 2). CIFO further shows and discloses that said first portion of said fastener 16 defines an unthreaded rectangular conformation that is located in said first bore 15

defined by said first ear **14** with a tight frictional fit sufficient to restrain said fastener **16** against rotation in response to movement of said lever **17** between said unlocked and said locked positions, but does not disclose that said fastener **16** is cylindrical nor does it disclose that fastener **16** is **selectively rotatable via application of torque to said head sufficient to overcome said tight frictional fit between said unthreaded cylindrical conformation and said first ear 14.**

Briles, however, teaches a first portion **15b** of a fastener **16** which defines an unthreaded cylindrical conformation that is located in a first bore **12** with a tight frictional fit sufficient to restrain said fastener **16** against rotation in response to movement of a lever **19** between unlocked and locked positions, as well as that said fastener **16** is selectively rotatable via application of torque to a head **15c** sufficient to overcome said tight frictional fit between said unthreaded cylindrical conformation **15b** and said first bore **12** (see figures 1 and 2; columns 1-3). Briles teaches such a fastening configuration for the purpose of providing an effective way to tighten the connection to a predetermined torque. As currently constructed, the matching square cross-section of the CIFO fastener and first bore prevents rotation absolutely which can result in an over torqued connection. The teaching of Briles provides for a similar rotation-preventing fastener-bore as CIFO but also provides a means by which a predetermined torque can be reached. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the squared fastener-bore connection of CIFO to instead be a cylindrical interference fit as taught by Briles so that a predetermined level of torque can be reached in tightening.

- b. Claim 2. CIFO further shows each of said collar portions **12** are spaced axially from said base **11** (see figures 1 and 2).
- c. Claim 5. CIFO further shows that said axially extending through-bore defines first and second cylindrical portions (inner portions of collar **12** and base **11**, respectively), said second cylindrical portion having a smaller diameter than said first cylindrical portion and located axially between said first portion and said neck **10** (see figures 1 and 2).
- d. Claim 7. CIFO shows a telescoping pole apparatus comprising a first pole section **9** defining a first bore (inner tubular area of **9**); a second pole section **1** slidably located in said first bore of said first pole section **9** in a telescoping arrangement; a lock connected to said first pole section **9** and adapted to secure said second pole section **1** axially relative to said first pole section **9**, said lock comprising a base **11** defining an axial through-bore, wherein an end portion of said first pole section **9** is located in said axial through-bore; a collar **12** connected to said base **11** and selectively radially constrictable relative to said base **11**, said collar **12** defining an opening aligned with said axial through-bore, said second pole section **1** projecting from said first bore of said first pole section **9** and through said opening of said collar **12**, said collar **12**, when radially constricted relative to said base **11**, firmly engaging and retaining said second pole section **1** in an axially and rotatably fixed position relative to said first pole section **9**; a fastener **16** connected to and frictionally engaged with said collar **12** so as to be restrained against unintended rotation relative to said collar **12**; said fastener **16** comprising a head at a first end and a threaded second end that projects outwardly from

said collar 12; a control member 17 that mates threadably with said threaded end of said fastener 16; said control member 17 selectively manually rotatable relative to said fastener 16 in first and second directions to constrict and expand said collar 12 radially, respectively, said fastener 16 restrained against rotation with said control member 17 by frictional engagement between said fastener 16 and said collar 12 (see figures 1 and 2; as well as Applicant's translation of pages 2-4).

CIFO lacks disclosure that said fastener 16 is selectively rotatable upon application of torque to said head sufficient to overcome said frictional engagement between said fastener 16 and said collar 12.

Briles, however, teaches a fastener 16 that is selectively rotatable via application of torque to a head 15c sufficient to overcome any frictional engagement between said said fastener 16 and a collar 11 (see Briles figures 1 and 2; columns 1-3). Briles teaches such a fastening configuration for the purpose of providing an effective way to tighten the connection to a predetermined torque. As currently constructed, the matching square cross-section of the CIFO fastener and first bore prevents rotation absolutely which can result in an over torqued connection. The teaching of Briles provides for a similar rotation-preventing fastener-bore as CIFO but also provides a means by which a predetermined torque can be reached. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the squared fastener-bore connection of CIFO to instead be a cylindrical interference fit as taught by Briles so that a predetermined level of torque can be reached in tightening.

- e. Claim 8. CIFO further shows said control member **17** comprising a lever including a head defining a threaded aperture that receives said threaded end of said fastener **16**; and a shank extending from said head and defining a wide flat tab (see figures 1 and 2).
- f. Claim 9. CIFO further shows a neck **10** projecting outwardly from said base **11**, wherein said collar **12** is connected to said neck **10** and axially spaced from said base **11** (see figures 1 and 2).
- g. Claim 10. CIFO further shows said collar **12** including first and second collar portions that are connected to and project outwardly from said neck **10**, said first and second collar portions terminating in respective first and second terminal ends **14** that are spaced apart from each other and defined therebetween a gap **13** in said collar **12** (see figures 1 and 2).
- h. Claim 11. CIFO further shows said first and second terminal ends **14** of said first and second collar portions defining respective first and second apertures **15** aligned with each other, wherein said fastener **16** extends through aligned first and second apertures **15** (see figures 1 and 2).
- i. Claim 12. CIFO further shows said fastener **16** comprises a head opposite said threaded end and a portion adjacent said head that frictionally engages said first terminal end **14** of said first collar portion whereby said fastener **16** is held against unintended rotation relative to said first and second collar portions upon rotation of said control member **17** relative to said fastener **16** (see figures 1 and 2).

- j. Claims 3 and 14. CIFO further shows said base **11**, said neck **10** and said collar **11** are defined as a one-piece molded plastic construction (see figure 1).
- k. Claim 15. CIFO shows a lock apparatus for securing first and second telescoping pole sections **9,1** relative to each other, said apparatus comprising a first portion **11** adapted for connection to an end portion of a first associated pole section **9**; a second portion **12** connected to said first portion **11** and defining a collar **12** that is selectively radially constrictable relative to said first portion **11** and adapted for receipt of a second associated pole section **1** partially telescoped into said first associated pole section **9**, said collar **12**, when radially constricted, firmly engaging and fixedly retaining a second associated pole section **1** received thereby, said collar **12** comprising first and second ears **14** separated from each other by a space **13**; a screw **16** extending through said first and second ears **14** of said collar **12** and including a headed end and an opposite threaded end, said screw comprising an unthreaded rectangular portion that is tightly frictionally engaged with only one of said first and second ears **14**, and a lever **17** operably coupled to said threaded end of said screw **16** and adapted for rotation in a first direction on said screw causing said lever **17** to be advanced on said screw **16** towards said headed end so that said collar **12** is radially constricted, and adapted for rotation in a second direction opposite said first direction so that said lever **17** moves away from said headed end of said screw **16** and said collar **12** resiliently radially expands, wherein said tight frictional engagement between said unthreaded portion of said screw **16** and said one of said first and second ears **14** restrains said screw **16** against unintended rotation with said lever **17** when said lever **17** is moved in said first and second directions (see figures 1 and 2).

CIFO lacks disclosure that said screw **16** is cylindrical as well as that it is selectively manually rotatable relative to said first and second ears **14** upon application of sufficient torque to said headed end to overcome said frictional engagement between said cylindrical portion of said screw **16** and said one of said first and second ears **14**.

Briles, however, teaches a screw **16** having a cylindrical unthreaded portion **15b** that is tightly frictionally engaged with a bore **12** as well as that said screw **16** is selectively manually rotatable upon application of sufficient torque to a headed end **15c** to overcome said frictional engagement between said cylindrical portion **15b** and said bore **12** (see figures 1 and 2; columns 1-3). Briles teaches such a fastening configuration for the purpose of providing an effective way to tighten the connection to a predetermined torque. As currently constructed, the matching square cross-section of the CIFO fastener and first bore prevents rotation absolutely which can result in an over torqued connection. The teaching of Briles provides for a similar rotation-preventing fastener-bore as CIFO but also provides a means by which a predetermined torque can be reached. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the squared fastener-bore connection of CIFO to instead be a cylindrical interference fit as taught by Briles so that a predetermined level of torque can be reached in tightening.

5. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of CIFO and Briles, as applied above, in view of Fullerton (US 5,324,150). CIFO shows a threaded distal end of the fastener **16** but does not disclose or teach that the threaded

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distal end of the fastener **16** defines a double lead left-handed thread. Nevertheless, as taught by Fullerton, "[o]ne skilled in the art will recognize at once that threads can differ in many other ways, including, for example, lead, the number of thread (single, double, triple threads), the direction or 'handedness' of the thread (right-handed or left-handed)...." Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a double lead left-handed thread at the end of the fastener of CIFO since such a configuration is commonly known within the art as taught by Fullerton.

Response to Arguments

6. Applicant's arguments, see amendment filed 1/23/2004, with respect to the rejection(s) of claim(s) 1-3 and 4-15 under 35 USC §102 have been fully considered and are persuasive in view of the translation of CIFO. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the teachings of Briles.

Allowable Subject Matter

7. Upon reconsideration, claim 5 is no longer indicated as allowable.

Conclusion

8. This action is NON-FINAL.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan M Flandro whose telephone number is (703) 305-6952.

The examiner can normally be reached on 8:30am - 5:30pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMF


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